

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

FILED**UNITED STATES DISTRICT COURT**

SEP 28 2020

for the

Western District of Oklahoma

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY DEPUTY**HE****CIV 20 984**

Richard and Lisa Unda

Case No.

(to be filled in by the Clerk's Office)

*Plaintiff(s)**(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)***-v-**

Trinity School at Edgemere

*Defendant(s)**(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)***COMPLAINT FOR A CIVIL CASE****I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Richard and Lisa Unda
Street Address	1321 Copperfield Drive
City and County	Edmond, Oklahoma County
State and Zip Code	Oklahoma, 73003
Telephone Number	405-509-4377
E-mail Address	RUnda28@gmail.com

B. The Defendant(s)Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title *(if known)*. Attach additional pages if needed.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Defendant No. 1

Name	Trinity School at Edgemere
Job or Title <i>(if known)</i>	
Street Address	3200 N. Walker
City and County	Oklahoma City, Oklahoma County
State and Zip Code	Oklahoma, 73118
Telephone Number	405-525-5600
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*



Federal question



Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* _____, is a citizen of the State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)* _____, is a citizen of the State of *(name)* _____. Or is a citizen of *(foreign nation)* _____.

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.

Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

See Attached

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

See Attached

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 9/24/2020

Signature of Plaintiff

Printed Name of Plaintiff

Richard Unda Lisa Unda
Richard Unda Lisa Unda

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address


Statement of Claim

Plaintiffs entered an enrollment contract with the Defendant on March 4, 2020 (Exhibit 1). The contents of the contract are not under dispute. The original contract did not contain a *force majeure* clause or provide for any method of termination. The contract was amended at the request of the Plaintiffs to include a termination clause without penalty or additional financial obligation should the Plaintiffs be forced to move as a result of employment conditions. The COVID-19 pandemic was declared by the World Health Organization subsequent to the contract. The pandemic presents an extraordinary event and circumstances beyond the control of either party. The Plaintiffs entered the contract with the fundamental assumption that enrollment included a safe environment that does not potentially expose their child to an illness that could result in death or the transmission of an highly infectious virus that has caused the death of over 960,000 worldwide, over 200,000 in the United States, and nearly 1,000 in Oklahoma as of September 22, 2020.

Near the end of the previous school year, shortly after the pandemic was declared, the Defendants quickly closed the school and implemented a virtual learning environment. Despite the challenges, the virtual environment provided a sufficient alternative to educating our child under these extreme circumstances. However, when the Defendants presented their reopening plan the week prior to the start of the new school year, it became obvious that they did not intend on continuing their virtual learning environment and planned to return to an in-person format only. When inquired about alternatives, the Defendants provided a brochure describing their distance learning program (Exhibit 2). The brochure made it clear that the distance learning program was primarily student-led and required independent work with limited support. The program was designed to serve as a minimal stopgap measure should a student become ill or have to quarantine as a result of exposure to the virus. No additional options were presented. For our situation, this was insufficient and did not justify the cost of tuition.

Based on the Centers for Disease Control (CDC) guidelines, our household presents an increased risk for the COVID-19 virus due to age factors and preexisting medical conditions. Additionally, our child is diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) and suffers from anxiety and severe impulsiveness, making the likelihood of adhering to safety protocols significantly unlikely. Furthermore, the school specializes in students with learning differences such as ADHD, autism, and other disabilities, adding additional concerns to an extremely challenging situation particularly with younger children such as ours. As suspected, these challenges have materialized into outbreaks as schools across the nation are now closing due to the transmission of the virus to include 718 reported cases in Oklahoma Schools.

Recognizing the treat of the virus in schools, the CDC also posted guiding principles that clearly state the safest approach for students is to engage in virtual-only classes. Oklahoma City Public Schools adhered to this guideline and delayed the start of school and then implemented a virtual format to ensure the safety of the community. Based on CDC recommendations and having no viable alternatives from Trinity School, we made the decision to withdraw our child

Initials 

on August 21, 2020. This was shortly after the first day of school. Our child did not attend a single day at the school. In a telephone conversation and subsequent email, Lisa Schade, Chief Operating Officer, indicated that Trinity School was letting families "out of their contract;" however, we are still obligated to pay the full tuition regardless of the pandemic since the contracts "cannot be altered in any way." The Plaintiffs do not have knowledge of situations with other families, remedies, or possible class actions.

Relief

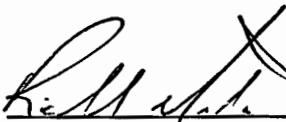
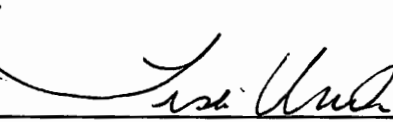
Plaintiffs are requesting declaratory relief from the enrollment contract due to the frustration of its purpose as a result of the COVID-19 pandemic. The principal purpose for entering into the contract is substantially frustrated by the pandemic and the associated circumstances of the Plaintiffs. Increased family risks made it prudent and potentially lifesaving to pursue the safest course of action, which is to not send their child to in-person classes as recommended by the CDC. The pandemic combined with an environment that increases the risk of transmitting a deadly virus was unforeseeable at the time of entering the contract. Specifically, the Plaintiffs are requesting termination of the contract to include all financial obligations and a refund of all tuition payments and fees for books and supplies. Plaintiffs have invested a significant amount of money in purchasing technology, learning aids, books, and supplemental programs to provide an excellent homeschool environment. Plaintiffs concede the enrollment fee. Plaintiffs are not in breach of the contract.

Exhibits

Exhibit 1: Enrollment Contract

Exhibit 2: Trinity Distance Learning Program

Date of Signing: 9/24/2020

Signature of Plaintiffs:  

Printed Name of Plaintiffs: Richard Unda Lisa Unda